

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0311P

**Sales and Use Tax
Calendar Years 1994, 1995, 1996**

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer, in a letter dated June 10, 1998 protested the penalty assessed in an audit completed on April 20, 1998. Taxpayer failed to self assess use tax on taxable general purchases and failed to charge sales tax for the renting and leasing of tangible personal property.

I. **Tax Administration** – Penalty

DISCUSSION

At issue is whether the taxpayer was negligent when it failed to self assess use tax on clearly taxable items and to charge sales tax to its customers for the leasing of tangible personal property.

Taxpayer states the tax was assessed on certain purchases in which the seller neglected to charge sales tax on the invoice. Although tax returns were filed and some use tax self assessed, the taxes were under-assessed for the audit period. Procedural changes have been implemented that require consistent adherence to tax law through use of a taxability matrix provided to Accounts Payable by its tax department and increased managerial diligence. In addition, taxpayer states it has begun an internal self-audit process several times a year to maintain ongoing stability of those procedures. Based upon the

above and the fact that all tax returns are timely filed and paid, and the fact that there was no intention on the part of the taxpayer to defraud the State of duly owed use tax, the taxpayer requested the penalties be abated.

A review of the audit indicates the taxpayer made no attempt to self-assess use tax on clearly taxable items and no use tax accrual system was in place. Approximately fifty percent (50%) of the tax due stemmed from the failure to charge and remit sales tax on clearly taxable lease agreements.

The department finds no reasonable cause exists, therefore, the request for penalty waiver is denied.

FINDING

Taxpayer's protest is denied.